

## Pension Benefit Guaranty Corporation

## § 4003.4

(1) The authority of the PBGC to review, either upon request or on its own initiative, a determination to which this part does not apply when, in its discretion, the PBGC determines that it would be appropriate to do so, or

(2) The procedure that the PBGC may utilize in reviewing any determination to which this part does not apply.

### § 4003.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: Code, contributing sponsor, controlled group, ERISA, multiemployer plan, PBGC, person, plan administrator, and single-employer plan.

In addition, for purposes of this part:

*Aggrieved person* means any participant, beneficiary, plan administrator, contributing sponsor of a single-employer plan or member of such a contributing sponsor's controlled group, plan sponsor of a multiemployer plan, or employer that is adversely affected by an initial determination of the PBGC with respect to a pension plan in which such person has an interest. The term "beneficiary" includes an alternate payee (within the meaning of section 206(d)(3)(K) of ERISA) under a qualified domestic relations order (within the meaning of section 206(d)(3)(B) of ERISA).

*Appeals Board* means a board consisting of three PBGC officials. The Executive Director shall appoint a senior PBGC official to serve as Chairperson and three or more other PBGC officials to serve as regular Appeals Board members. The Chairperson shall designate the three officials who will constitute the Appeals Board with respect to a case, provided that a person may not serve on the Appeals Board with respect to a case in which he or she made a decision regarding the merits of the determination being appealed. The Chairperson need not serve on the Appeals Board with respect to all cases.

*Appellant* means any person filing an appeal under subpart D of this part.

*Director* means the Director of any department of the PBGC and includes the Executive Director of the PBGC, Deputy Executive Directors, and the General Counsel.

### § 4003.3 PBGC assistance in obtaining information.

A person who lacks information or documents necessary to file a request for review pursuant to subpart C or D of this part, or necessary to a decision whether to seek review, or necessary to participate in an appeal pursuant to § 4003.57 of this part or necessary to a decision whether to participate, may request the PBGC's assistance in obtaining information or documents in the possession of a party other than the PBGC. The request shall state or describe the missing information or documents, the reason why the person needs the information or documents, and the reason why the person needs the assistance of the PBGC in obtaining the information or documents. The request may also include a request for an extension of time to file pursuant to § 4003.4 of this part.

### § 4003.4 Extension of time.

(a) *General rule.* When a document is required under this part to be filed within a prescribed period of time, an extension of time to file will be granted only upon good cause shown and only when the request for an extension is made before the expiration of the time prescribed. The request for an extension shall be in writing and state why additional time is needed and the amount of additional time requested. The filing of a request for an extension shall stop the running of the prescribed period of time. When a request for an extension is granted, the PBGC shall notify the person requesting the extension, in writing, of the amount of additional time granted. When a request for an extension is denied, the PBGC shall so notify the requestor in writing, and the prescribed period of time shall resume running from the date of denial.

(b) *Disaster relief.* When the President of the United States declares that, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121, 5122(2), 5141(b)), a major disaster exists, the Executive Director of the PBGC (or his or her designee) may, by issuing one or more notices of disaster relief, extend the due date for filing a request for reconsideration under § 4003.32 or an appeal under § 4003.52 by up to 180 days.

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(1) The due date extension or extensions shall be available only to an aggrieved person who is residing in, or whose principal place of business is within, a designated disaster area, or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is within a designated disaster area; and

(2) The request for reconsideration or appeal shall identify the filing as one for which the due date extension is available.

### § 4003.5 Non-timely request for review.

The PBGC will process a request for review of an initial determination that was not filed within the prescribed period of time for requesting review (see §§ 4003.32 and 4003.52) if—

(a) The person requesting review demonstrates in his or her request that he or she did not file a timely request for review because he or she neither knew nor, with due diligence, could have known of the initial determination; and

(b) The request for review is filed within 30 days after the date the aggrieved person, exercising due diligence at all relevant times, first learned of the initial determination where the requested review is reconsideration, or within 45 days after the date the aggrieved person, exercising due diligence at all relevant times, first learned of the initial determination where the request for review is an appeal.

### § 4003.6 Representation.

A person may file any document or make any appearance that is required or permitted by this part on his or her own behalf or he or she may designate a representative. When the representative is not an attorney-at-law, a notarized power of attorney, signed by the person making the designation, which authorizes the representation and specifies the scope of representation shall be filed with the PBGC in accordance with § 4003.9(b) of this part.

### § 4003.7 Exhaustion of administrative remedies.

Except as provided in § 4003.22(b), a person aggrieved by an initial deter-

mination of the PBGC covered by this part, other than a determination subject to reconsideration that is issued by a Department Director, has not exhausted his or her administrative remedies until he or she has filed a request for reconsideration under subpart C of this part or an appeal under subpart D of this part, whichever is applicable, and a decision granting or denying the relief requested has been issued.

### § 4003.8 Request for confidential treatment.

If any person filing a document with the PBGC believes that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, he or she shall specify the information with respect to which confidentiality is claimed and the grounds therefor.

### § 4003.9 Method and date of filing.

(a) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(b) *Date of filing.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

[68 FR 61352, Oct. 28, 2003]

### § 4003.10 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

[68 FR 61352, Oct. 28, 2003]

## Subpart B—Initial Determinations

### § 4003.21 Form and contents of initial determinations.

All determinations to which this subpart applies shall be in writing, shall state the reason for the determination, and, except when effective on the date of issuance as provided in § 4003.22(b), shall contain notice of the right to request review of the determination pursuant to subpart C or subpart D of this